

## The complaint

Mr S complains that NewDay Ltd trading as Aqua lent irresponsibly when it approved his credit card application and later increased the credit limit.

## What happened

The background to this complaint and my initial conclusions were set out in a provisional decision. I said:

*Mr S applied for an Aqua credit card in July 2024. In his application, Mr S said he had an annual income of £18,000 that Aqua calculated left him with £1,373 a month after deductions. Aqua carried out a credit search and found Mr S already owed around £11,200 in other unsecured debt and was making monthly repayments of £537. No defaults, adverse credit or recent missed payments were found on Mr S' credit file. Aqua completed an affordability assessment and used an estimate for Mr S' general living expenses of £424 a month. No deductions were made in respect of Mr S' rent. After applying its lending criteria, Aqua says Mr S had £411 a month remaining as a disposable income after covering his existing outgoings. Aqua approved Mr S' application and issued a credit card with a £900 limit.*

*Mr S used the credit card and his balance exceeded the credit limit in September 2017, two months after it was approved. An overlimit fee of £12 was applied by Aqua.*

*In October 2024 Aqua looked at Mr S' account and increased the credit limit. The lending data Aqua obtained said Mr S was earning £6,795 a month (an increase of over £5,000 from the original application three months earlier) and that he was making monthly repayments of £513 to his existing debts. Aqua applied estimates for Mr S' rent of £1,086 and general living expenses of £829 a month when completing its affordability assessment. Aqua says Mr S had a disposable income of £4,367 a month after meeting his existing outgoings. Aqua approved a credit limit increase to £1,900.*

*More recently, Mr S complaint that Aqua lent irresponsibly and it issued a final response. Aqua said it had carried out the relevant lending checks before approving Mr S' application and increasing the credit limit and didn't agree it lent irresponsibly.*

*An investigator at this service looked at Mr S' complaint. They weren't persuaded that Aqua completed reasonable and proportionate checks before deciding to lend to Mr S. As a result, the investigator asked Mr S to provide copies of his bank statements. But the investigator wasn't persuaded the bank statements provided showed enough detail about Mr S' circumstances. The investigator wasn't persuaded the bank statements showed Aqua lent irresponsibly and didn't uphold Mr S' complaint.*

*Mr S asked to appeal and said the income figure used by Aqua when looking at his credit limit increase was obviously incorrect as he'd never earned £6,795 a month. Mr S also said he'd supplied the bank statements available. Mr S also questioned whether the claim he'd maintained his account was accurate. Mr S pointed out he owed over £10,000 in existing*

debts which was high against his income. As Mr S asked to appeal, his complaint has been passed to me to make a decision.

### **What I've provisionally decided – and why**

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*Before agreeing to lend or increasing the credit limit, the rules say Aqua had to complete reasonable and proportionate checks to ensure Mr S could afford to repay the debt in a sustainable way. These affordability checks needed to be focused on the borrower's circumstances. The nature of what's considered reasonable and proportionate will vary depending on various factors like:*

- The amount of credit;*
- The total sum repayable and the size of regular repayments;*
- The duration of the agreement;*
- The costs of the credit; and*
- The consumer's individual circumstances.*

*That means there's no set list of checks a lender must complete. But lenders are required to consider the above points when deciding what's reasonable and proportionate. Lenders may choose to verify a borrower's income or obtain a more detailed picture of their circumstances by reviewing bank statements for example. More information about how we consider irresponsible lending complaints can be found on our website.*

*Having considered the available evidence I've reached a different conclusion to the investigator and haven't been persuaded NewDay lent responsibly to Mr S. I think it's reasonable to note Mr S' income was modest at £18,000 a year or £1,373 a month. And Mr S' existing debts were high when compared against his income. Mr S owed a total of £11,217 in other unsecured debt at the point of his application. I can see that Mr S' existing debts were already taking up £537 a month, or around 40% of his take home pay. I can also see Aqua applied an estimate of £424 a month in Mr S' application for his general living expenses. But no allowance was made for Mr S' rent or housing costs in the affordability assessment Aqua completed.*

*Whilst I can see Aqua reached the conclusion Mr S had a disposable income of £411 a month, that figure is artificially high due to the lack of allowance for Mr S' rent. Even if I were to use a very modest rent figure of £300 a month, that would've only left Mr S with around £111 to cover his remaining outgoings and his new Aqua credit card.*

*In terms of what's a reasonable deduction for rent, I can see that in October 2024, three months after Mr S' initial application, Aqua used a rent figure of £1,086 in its estimates. If I were to apply that to the application, Mr S' outgoings would've been substantially higher than his income.*

*In my view, the lack of housing costs in Aqua's affordability checks at application meant the disposable income figure reached was artificially high. I think a more realistic rent figure would've led Aqua to find Mr S had a much lower disposable income in reality. In my opinion, it's more likely than not that if Aqua had included a realistic rent figure in its lending assessment it would've found Mr S had little disposable income remaining to cover emergencies or unexpected outgoings and taken the decision to decline his application. Overall, I'm satisfied Aqua lent irresponsibly when it approved Mr S' application in July 2024.*

*It follows that if I think the decision to approve Mr S' application was unreasonable I think the same about the credit limit increase to £1,900 in October 2024. Looking at the lending data, I note Mr S was charged an overlimit fee the month before Aqua assessment was completed and in the third month of having his credit card. So it's difficult to argue that his account was well maintained. Further, the income figure of £6,795 Aqua obtained via a service provided by the credit reference agency was unrealistic. Mr S had told Aqua he was earning £1,373 a month just three months earlier. An increase of over £5,000 a month in three months isn't realistic. I'm satisfied the information available doesn't show the credit card became more affordable for Mr S at the point Aqua increased his credit limit.*

*For the reasons I've given above I intend to uphold Mr S' complaint and direct Aqua to settle by refunding all interest, fees and charges applied from the date of approval.*

*I've considered whether the business acted unfairly or unreasonably in any other way including whether the relationship might have been unfair under Section 140A of the Consumer Credit Act 1974. However, I'm satisfied the redress I have directed below results in fair compensation for Mr S in the circumstances of his complaint. I'm satisfied, based on what I've seen, that no additional award would be appropriate in this case.*

I invited both parties to respond with any additional comments or points they wanted me to consider before I made my final decision. Mr S confirmed he is willing to settle in line with the provisional decision. We didn't hear back from Aqua.

### **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As no new information has been provided I see no reason to change the conclusions I reached in my provisional decision. I still think Mr S' complaint should be upheld, for the same reasons.

### **My final decision**

My decision is that I uphold Mr S' complaint and direct NewDay Ltd trading as Aqua to settle as follows:

- Rework the account removing all interest, fees, charges and insurances (not already refunded) that have been applied.
- If the rework results in a credit balance, this should be refunded to Mr S along with 8% simple interest per year\* calculated from the date of each overpayment to the date of settlement. Aqua should also remove all adverse information regarding this account from Mr S' credit file.
- Or, if after the rework there is still an outstanding balance, Aqua should arrange an affordable repayment plan with Mr S for the remaining amount. Once Mr S has cleared the balance, any adverse information in relation to the account should be removed from their credit file.

If Aqua has sold the debt to a third party, it should arrange to either buy back the debt from the third party or liaise with them to ensure the redress set out above is carried out promptly.

\*HM Revenue & Customs requires Aqua to deduct tax from any award of interest. It must give Mr S a certificate showing how much tax has been taken off if he asks for one. If it

intends to apply the refund to reduce an outstanding balance, it must do so after deducting the tax.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 15 October 2025.

Marco Manente  
**Ombudsman**